

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 18, 2005

**SENATE BILL**

**No. 354**

**Introduced by Senator Escutia**

February 16, 2005

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An act to add Section 57015 to the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 354, as amended, Escutia. Hazardous substances: brownfields task force.

Under existing law, the Site Designation Committee in the California Environmental Protection Agency is authorized to designate an administering agency for oversight of a remedial action to a hazardous substance release. Existing law requires the administering agency to supervise the site investigation and remedial action conducted by the responsible party and, upon determining that the site investigation and remedial action has been satisfactorily completed, to issue a certificate of completion to the responsible party.

This bill would require the ~~Governor agency to appoint~~ *establish* a Task Force on ~~the Coordination of Site Cleanup Programs Brownfields Redevelopment~~, which would be composed of specified persons with substantial experience with the ~~actual~~ redevelopment of brownfields properties from the public, private, and nonprofit sectors, *appointed by the Governor, the President pro Tempore of the Senate, and the Speaker of the Assembly.*

The bill would require the task force to provide information to the agency on ~~implementing administrative improvements to the state's~~

~~site cleanup oversight programs, and to make recommendations on how to best coordinate site cleanup oversight responsibilities within the agency the effectiveness of existing laws, regulations, and administrative remedies relating to the state's site cleanup oversight programs, brownfield cleanup and redevelopment funding programs, and liability relief mechanisms available to brownfield redevelopers, and to identify and evaluate legislative, regulatory, or administrative proposals that would improve opportunities for brownfield redevelopment.~~

The bill would require the agency to convene a meeting of the task force on or before ~~September 15~~ May 5, 2006, and would require the task force to submit recommendations to the Legislature and the agency on or before ~~July 1~~ May 4, 2007. The bill would prohibit the agency from consolidating the site cleanup programs of the Department of Toxic Substances Control and the California regional water quality control boards until at least 90 days after the agency receives the task force's recommendations.

The bill would require these provisions to be implemented through existing state resources, would require the agency to provide staff support to the task force, up to a specified amount, and would allow the agency to apply for, accept, and spend any grants and gifts from any source, public or private, to implement the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 57015 is added to the Health and Safety
- 2 Code, to read:
- 3 57015. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) Real property contaminated with hazardous substances is a
- 6 continuing blight on communities and the cleanup and
- 7 development of these sites will lead to productive end uses,
- 8 including job creation, new housing, and an increased
- 9 community tax base.
- 10 (2) The patchwork regulatory framework for site cleanup in
- 11 California has created over 100 local, regional, and state agencies
- 12 that may serve as the regulatory agency responsible for
- 13 overseeing environmental cleanup. California's framework of

multiple agencies with overlapping jurisdictions has led to confusing and costly delays in the redevelopment of blighted or contaminated real properties.

(3) The Governor’s California Performance Review recognized that “this fragmentation of responsibility and overlapping and duplicative authority is not without costs—to the public and to the state,” and recommended that “the Governor should work with the Legislature to consolidate cleanup functions.”

~~(4) The California Environmental Protection Agency should determine the most efficient and effective method for coordinating site cleanup oversight activity between the current programs.~~

*(4) The State Auditor’s Report on the California Environmental Protection Agency that was issued in July of 2003 concluded that liability concerns and funding constraints can impede the cleanup and redevelopment of brownfields, and that thousands of properties lay fallow awaiting investigation, cleanup, and redevelopment.*

*(5) Based on the State Auditor’s Report and on the recommendations of the Governor’s California Performance Review, the state will convene a taskforce to advise the Legislature and administration on improving opportunities for brownfield redevelopment in the state, by addressing the issues of funding, liability relief, and streamlining and coordination of regulatory oversight.*

(b) For purposes of this section, the following definitions shall apply:

(1) “Agency” means the California Environmental Protection Agency.

~~(2) “Task force” means the Task Force on the Coordination of Site Cleanup Programs established by the Governor pursuant to subdivision (c).~~

~~(c) The Governor shall appoint a Task Force on the Coordination of Site Cleanup Programs, which shall be composed of stakeholders with substantial experience with the actual redevelopment of brownfield properties from the public, private, and nonprofit sectors. The task force shall include, but not be limited to, a representative of one of, or a person who is one of, each of the following:~~

1 ~~(1) A redevelopment agency or municipality.~~

2 ~~(2) A private developer.~~

3 ~~(3) A nonprofit developer.~~

4 ~~(4) An environmental regulatory agency.~~

5 ~~(5) An environmental land use attorney.~~

6 ~~(6) An environmental engineer or scientist.~~

7 ~~(7) A nonprofit organization specializing in brownfield funding~~  
8 ~~and technical assistance.~~

9 ~~(d) The task force shall provide information to the agency on~~  
10 ~~implementing administrative improvements to the state's site~~  
11 ~~cleanup oversight programs, and shall make recommendations,~~  
12 ~~based on the information analyzed pursuant to subdivision (g), on~~  
13 ~~how to best coordinate site cleanup oversight responsibilities~~  
14 ~~within the agency.~~

15 ~~(e) (1) The agency shall convene a meeting of the task force~~  
16 ~~on or before September 15, 2006, and the task force shall submit~~  
17 ~~its recommendations to the Legislature and the agency in the~~  
18 ~~form of a written report on or before July 1, 2007.~~

19 ~~(2) A majority of the task force shall constitute a quorum for~~  
20 ~~the transaction of business.~~

21 ~~(3) The task force shall be headed by a chairperson, selected~~  
22 ~~by the task force from among its members.~~

23 ~~(f) The agency shall not consolidate the site cleanup programs~~  
24 ~~of the Department of Toxic Substances Control and the~~  
25 ~~California regional water quality control boards until at least 90~~  
26 ~~days after the agency receives the task force's recommendations~~  
27 ~~pursuant to subdivision (e).~~

28 ~~(g) In making recommendations on the coordination of site~~  
29 ~~cleanup oversight responsibilities within the agency, the task~~  
30 ~~force shall consider all of the following for each site cleanup~~  
31 ~~oversight program within the agency:~~

32 ~~(1) Consistency of cleanup standards and oversight process.~~

33 ~~(2) Capacity and expertise of staff.~~

34 ~~(3) Appropriateness of level of effort.~~

35 ~~(4) Employment of institutional and engineering controls.~~

36 ~~(5) Public notification and participation process.~~

37 ~~(6) Frequency and nature of the conditions under which a~~  
38 ~~completed removal and remedial action at a site may be subject~~  
39 ~~to further administrative action.~~

~~(7) Length of time required to reach “cleanup complete” determinations.~~

~~(8) Total agency oversight costs.~~

~~(9) Appeals process.~~

~~(10) Compliance monitoring and enforcement.~~

~~(h) (1) The task force may consult with additional persons, advisory entities, and governmental agencies, as the task force determines necessary.~~

~~(2) The requirements of this section shall be implemented only through existing state resources. A member of the task force shall not receive any compensation related to the member’s service on the task force that is in addition to any compensation that the member receives from any other public or private source.~~

~~(3) The agency shall provide staff support to the task force, the expenditure for which shall not exceed more than one hundred forty thousand dollars (\$140,000) in the first year in which the task force implements this section.~~

~~(h) The task force may apply for, accept, and spend, any grants and gifts from any source, public or private, to implement this section.~~

~~(2) “President” means the President pro Tempore of the Senate.~~

~~(3) “Speaker” means the Speaker of the Assembly.~~

~~(4) “Task force” means the Task Force on Brownfields Redevelopment established pursuant to subdivision (c).~~

~~(c) The agency shall establish the Task Force on Brownfields Redevelopment, which shall be composed of stakeholders from the public, private, and nonprofit sectors that have substantial demonstrated experience in completing or supporting the successful redevelopment of two or more brownfield properties on or after January 1, 2003. The task force shall be composed of a representative of one of, or a person who is one of, each of the following:~~

~~(1) A redevelopment agency.~~

~~(2) A municipality.~~

~~(3) A private sector developer.~~

~~(4) A nonprofit developer.~~

~~(5) An environmental engineer or scientist.~~

~~(6) An environmental attorney.~~

~~(7) A land use or real estate attorney.~~

1     (8) *A nonprofit organization specializing in brownfield*  
2 *funding and technical assistance.*

3     (9) *A nonprofit organization specializing in environmental*  
4 *protection or environmental justice issues, or both of those areas.*

5     (d) (1) *The Governor, the President pro Tempore of the*  
6 *Senate, and the Speaker of the Assembly shall each appoint three*  
7 *members of the task force.*

8     (2) *The Governor shall appoint one member fulfilling the*  
9 *qualifications of paragraph (1) of subdivision (c), one member*  
10 *fulfilling the qualifications of paragraph (2) of subdivision (c),*  
11 *and one member fulfilling the qualifications of paragraph (3) of*  
12 *subdivision (c).*

13     (3) *The speaker shall appoint one member fulfilling the*  
14 *qualifications of paragraph (4) of subdivision (c), one member*  
15 *fulfilling the qualifications of paragraph (5) of subdivision (c),*  
16 *and one member fulfilling the qualifications of paragraph (6) of*  
17 *subdivision (c).*

18     (4) *The president shall appoint one member fulfilling the*  
19 *qualifications of paragraph (7) of subdivision (c), one member*  
20 *fulfilling the qualifications of paragraph (8) of subdivision (c),*  
21 *and one member fulfilling the qualifications of paragraph (9) of*  
22 *subdivision (c).*

23     (5) *All members shall be appointed to the task force on or*  
24 *before March 31, 2006.*

25     (e) *The task force shall do all of the following:*

26     (1) *Provide information on the effectiveness of existing laws,*  
27 *regulations, and administrative remedies relating to the*  
28 *following:*

29     (A) *The state's site cleanup oversight programs.*

30     (B) *The state's brownfield cleanup and redevelopment funding*  
31 *programs.*

32     (C) *The state's liability relief mechanisms available to*  
33 *brownfield redevelopers.*

34     (2) *Identify and evaluate legislative, regulatory, or*  
35 *administrative proposals that would improve opportunities for*  
36 *brownfield redevelopment in the state by aiming to do any of the*  
37 *following:*

38     (A) *Improve the streamlining and coordination of site cleanup*  
39 *oversight responsibilities within the agency. A recommendation*

1 *made pursuant to this paragraph shall take into consideration*  
2 *information analyzed pursuant to subdivision (f).*

3 *(B) Provide a reliable source of funding for the cleanup and*  
4 *redevelopment of brownfields.*

5 *(C) Provide liability relief to new purchasers of contaminated*  
6 *property who are not responsible parties.*

7 *(f) In making recommendations on the coordination of site*  
8 *cleanup oversight responsibilities within the agency pursuant to*  
9 *subparagraph (A) of paragraph (2) of subdivision (e), the task*  
10 *force shall consider all of the following for each site cleanup*  
11 *oversight program within the agency:*

12 *(1) Consistency of cleanup standards and oversight process.*

13 *(2) Capacity and expertise of staff.*

14 *(3) Appropriateness of level of effort.*

15 *(4) Employment of institutional and engineering controls.*

16 *(5) Public notification and participation process.*

17 *(6) Frequency and nature of the conditions under which a*  
18 *completed removal and remedial action at a site may be subject*  
19 *to further administrative action.*

20 *(7) Length of time required to reach "cleanup complete"*  
21 *determinations.*

22 *(8) Total agency oversight costs.*

23 *(9) Appeals process.*

24 *(10) Compliance monitoring and enforcement.*

25 *(g) (1) The agency shall convene the first meeting of the task*  
26 *force on or before May 5, 2006.*

27 *(2) The task force shall meet as often as it deems necessary,*  
28 *with consideration of available resources, but at a minimum, at*  
29 *least once each month.*

30 *(3) The task force shall submit its findings and*  
31 *recommendations to the Legislature and the agency in the form*  
32 *of a written report on or before May 4, 2007.*

33 *(4) A majority of the task force shall constitute a quorum for*  
34 *the transaction of business.*

35 *(5) The task force shall be headed by a chairperson, selected*  
36 *by the task force from among its members.*

37 *(6) The agency shall not consolidate the site cleanup*  
38 *programs of the Department of Toxic Substances Control and the*  
39 *California regional water quality control boards until at least 90*

1 days after the agency receives the task force's recommendations  
2 pursuant to paragraph (3).

3 (h) (1) The task force may consult with additional persons,  
4 advisory entities, and governmental agencies, as the task force  
5 determines necessary.

6 (2) The requirements of this section shall be implemented only  
7 through existing state resources. A member of the task force shall  
8 not receive any compensation related to the member's service on  
9 the task force that is in addition to any compensation that the  
10 member receives from any other public or private source.

11 (3) The agency shall provide staff support to the task force, the  
12 expenditure for which shall not exceed more than one hundred  
13 forty thousand dollars (\$140,000) in the first year in which the  
14 task force implements this section.

15 (4) The staff support at meetings of the task force shall  
16 include, but not be limited to, all of the following:

17 (A) A representative of the agency.

18 (B) A representative of the Business, Transportation and  
19 Housing Agency.

20 (C) A representative of the Governor's Office of Planning and  
21 Research.

22 (i) The task force may apply for, accept, and spend, any grants  
23 and gifts from any source, public or private, to implement this  
24 section.